

In the Matter of	)	Department of Transportation
REDUCTION OF FUEL TANK FLAMMABILITY	)	
IN TRANSPORT CATEGORY AIRPLANES	)	
	)	14 CFR Parts 25, 26, 121, 125 & 129
	)	Docket No. FAA-2005-22997
FINAL RULE	)	RIN 2120-A123

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Dated: 20 January 2009

BEFORE THE  
DIRECTOR OF THE FEDERAL REGISTER  
WASHINGTON, D.C.

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**COMMENTS OF**  
**THE ASSOCIATION OF ASIA PACIFIC AIRLINES**

The Association of Asia Pacific Airlines (AAPA) files these comments regarding the Final Rule on the reduction of fuel tank flammability in transport category airplanes.

**I. THE ASSOCIATION OF ASIA PACIFIC AIRLINES**

AAPA is the trade association of 17 major international airlines based in the Asia Pacific region. Its members are Air New Zealand, All Nippon Airways, Asiana Airlines, Cathay Pacific Airways, China Airlines, Dragonair, EVA Air, Garuda Indonesia, Japan Airlines, Korean Air, Malaysia Airlines, Philippine Airlines, Qantas Airways, Royal Brunei Airlines, Singapore Airlines, Thai Airways International and Vietnam Airlines. 13 AAPA member airlines operate more than 500 flights per week to the United States.

**II. INTRODUCTION**

The Association of Asia Pacific Airlines (AAPA) appreciates this opportunity to submit its comments regarding the Final Rule on Fuel Tank Flammability

AAPA acknowledges the authority of the Federal Aviation Administration to issue rules regarding aviation safety.

The AAPA wishes to emphasize that safety is of paramount importance and concern to all our members and that it fully supports the objectives and efforts already undertaken by the industry and airworthiness bodies to address the potential risks of fuel tank flammability.

The AAPA acknowledges that the FAA on issuing the final rule has endeavoured to take into consideration the comments and concerns that have been submitted by industry and airworthiness authorities. However we believe the final rule has not adequately responded to and addressed some of the major concerns presented.

### **III. Applicability to existing airplanes**

We welcome the FAA decision of adjusting the applicability of the rule so that aircraft produced prior to 1992 will not be subject to the rule and also maintaining its proposal that all-cargo airplanes are exempted. Nevertheless the AAPA's stance on retroactivity remains unchanged, we do not support the concept and we are cognizant that the current EASA regulatory framework does not recommend retroactive regulation.

We note the FAA's effort to involve other foreign regulatory authorities and industry in the process of this rulemaking, however we are disappointed with the outcomes that do not reflect the expected level of harmonisation this global industry requires. There is much disagreement as to the way forward on this issue. The AAPA therefore urges the FAA to maintain its efforts and principles of harmonisation in its approach, methodology and application of the continued airworthiness requirements with that of its counterparts at EASA.

The AAPA strongly supports the existing position of EASA to not mandate the retrofit of in-service airplanes as the cost benefit analysis to retrofit the affected fleet remains questionable and unjustified, placing an industry already financially constrained under further financial stress.

### **IV. Scheduling compliance for retrofit**

The unilateral action of the FAA to mandate the retrofit of in-service airplanes requires 50% of the in-service fleet to be in compliance by September 19, 2014 and 100% of the fleet by September 19, 2017. It is understood that these dates of compliance have been selected by the FAA on the assumption that the DAHs are able to develop, and make available service instructions for FRM or IMM by September 2010, but more importantly that sufficient modification kits will be available to support the retrofit programme. This means by the time the service instructions and modification kits should be available air carriers will only have a period of 4 years to retrofit 50% and 7 years to retrofit 100% of their fleet.

May we remind the FAA that the airframe manufacturers are already experiencing delays in supporting their airframe programmes and they have identified only one supplier for their FRM/ IMM solutions. We are therefore doubtful that air carriers will be able to meet the 50% compliance requirement as there are no guarantees given to the air carriers that the airframe

manufacturers and their suppliers will be able to meet the demand of the industry in such a short timeframe.

Furthermore, it is well recognised that such a retrofit programme would be most practical and cost effective if it was aligned with the normal heavy maintenance check schedule that air carriers follow. Therefore, if air carriers are to satisfy the 50% compliance requirement they may require additional scheduled maintenance inputs leading to additional downtime and significant additional cost at a time that the industry can ill afford.

We would therefore urge the FAA to recognise that the 50% compliance requirement is flawed and is subject to variables outside the control of the air carrier. We would suggest that the final rule be amended to allow flexibility to be granted and permit on a case-by-case basis an extension of the 50% compliance requirement. More preferably we would urge that it be removed.

We take note that the FAA has provided for a one-year extension in the compliance time for air carriers to retrofit their affected fleet if they revise their operation manuals to use ground conditioned air. However we consider the one-year extension although useful remains insufficient.

## **V. Conclusion**

The AAPA continue to reiterate that safety is of paramount importance to all our member airlines and it welcomes the efforts undertaken by the industry and airworthiness bodies to address the potential risks of fuel tank flammability.

We recognise the intent of the final rule but we do not support the concept of retroactivity and is cognizant that the current EASA regulatory framework does not support retroactive regulation. We encourage the FAA to make efforts to harmonise its approach, methodology and application of the retrofit requirement with that of its counterpart in EASA.

In view of the many limiting factors, the AAPA is not confident that the retrofit compliance requirements for in-service airplanes as specified in the final rule would be achievable. With the current AAPA fleet size of more than 1500 airplanes, we would suggest that the final rule be amended to allow flexibility to be granted, enabling on a case-by-case basis an extension of the 50% compliance requirement. More preferably we would urge that it be removed.

We consider that the one-year extension in the compliance time for airlines to retrofit their affected fleet if they revise their operation manuals to use ground conditioned air remains insufficient.

Notwithstanding the issues raised in this submission, the AAPA and its member airlines are committed to work with the FAA and other regulatory agencies in assuring that the highest industry safety standards are maintained. We believe that the highest safety standards can only be assured through international collaboration and cooperation.